S.B.Cr.Misc. Bail Appli. No.5905/2007

(Sukha Ram Vs. State of Rajasthan)

Date of order : December 10, 2007

HON'BLE MR.H.R.PANWAR,J.

Mr.Sandeep Mehta, for the petitioner.
Mr.Ashok Upadhyaya, P.P. for the State.

Heard learned counsel for the petitioner and the Public Prosecutor for the State. Perused the order impugned and the challan papers.

It is contended by the learned counsel for the petitioner that the witnesses viz. Mangu Ram and Sohan Lal met to the deceased while he was lying underneath a tree and he stated to the witnesses either to inform to his house or take him to his house and, therefore, it cannot be said that it was the present petitioner, who caused the murder of the deceased by throttling. In view the statements of the eye-witnesses, the petitioner and the deceased were scuffling, however, the witnesses used the word "wrestling" and thereafter the deceased died because of asphyxia due to throttling (broken trachea and fracture of CT vertebra) as per the Medical

Board. Except the present petitioner, no one has been shown present at the place of the occurrence by the witnesses.

The evidence of the witnesses is that it was the present petitioner and the deceased alone and none else at the place of the occurrence. In my view, it is not a fit case to grant bail to the petitioner.

The bail application filed by the petitioner under section 439 Cr.P.C. is, therefore, dismissed. However, the learned counsel wishes to file a fresh bail application after the statement of the Doctor, who conducted the post mortem is recorded.

(H.R.PANWAR),J.

m.asif/-